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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/606,078

06/26/2003

Alexander I. Gilevich

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4258

7590

06/14/2006

J. E. McTaggart
Suite 105
1860 Eastman Avenue
Ventura, CA 93003

EXAMINER

FORD, JOHN K

ART UNIT

PAPER NUMBER

3753

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,078

Applicant(s)

GILEVICH, ALEXANDER I.

Examiner

John K. Ford

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☒ Claim(s) 7&8 is/are objected to (if rewritten in independent form & all 35 U.S.C. 112 problems corrected).
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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Applicant has apparently modified a preexisting X-ray inspection machine with the closed recirculation cooling system disclosed in the application. In response to this office action, the examiner is requiring that a diagram or sketch at least as detailed as what is shown in applicant's Figure 2 of this prior art X-ray machine. If it is mounted on a stand, details of the stand are required. This need not be a formal drawing and is only to facilitate further examination of the application. If applicant does not have product literature that shows what the examiner is requiring, then a carefully drawn sketch of the prior art will be sufficient.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The examiner doesn't understand the scope of the claims. Are you claiming an x-ray food inspection station in combination with a recirculation-type cooler or are you claiming an enclosure containing electronic circuitry in combination with a recirculation-type cooler? Make it clear in response to this action, both in the claims and in applicant's remarks on the record.

It is also unclear to what degree the duct must support the console enclosure. That is to say it is unclear what the words "contribute substantially to structural support" mean in claim 1. Where words of degree are used some standard for measuring that

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degree is necessary and the specification lacks any such standard. See Seattle Box Co. v Industrial Crating and Packing, 221 USPQ 568, 573-574 (Fed. Cir. 1984).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 5 and 6 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over either one of Sharp et al (US 2004/0180620) or Sharp et al (USP 6,506,111).

Since these two references are substantially identical, Sharp '620 will be discussed with the understanding that corresponding disclosure can be found in Sharp '111. A console 12 containing electronic circuitry (servers or other electronic assemblies) arranged on support brackets 14 is disclosed. A plinth 16 formed with a duct defining a U-shaped flow path 46 communicates with the console thorough a base

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plate 36 via an inlet 40 and outlet 38. In paragraph 36, Sharp discloses that the console 12 is "closed such that the airflow through the cabinet is re-circulated." The duct being part of the plinth is deemed to contribute substantially to structural support of the console enclosure 12.

Regarding claim 2, see fan 18. Regarding claim 6, any one of the sidewalls of the plinth 16 are deemed to be a straight support strut that extend in the predominantly vertical inclined direction.

Claims 1, 2, 4, 5 and 6 are rejected under 35 U.S.C. 103(a) either one of Sharp et al (US 2004/0180620) or Sharp et al (USP 6,506,111) in view of Fenton et al (USP 4,887,437).


While Sharp is silent on the matter of the duct defining the passageway 46 being a support structure, it is clear from Fenton, col. 5, lines 63-65, that vertical duct walls (44, in Fenton) provide structural support to the structure to which they are attached. To have made the vertical walls of the duct defining the passageway 46 of Sharp as support structures would have been obvious from the teaching of Fenton to advantageously make the plinth 16 of Sharp stronger and capable of supporting more weight.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over any of the prior art (Sharp or Sharp/Fenton) as applied to claim 2 above, and further in view of JP 03-250698 (Figure 1).

JP '698, Figure 1, shows two fans, one before the heat exchanger and one after the heat exchanger in the classic push-pull configuration. To have modified Sharp with push-pull fans (instead of just the push fan disclosed by Sharp) would have been obvious to one of ordinary skill to advantageously increase flow therefore advantageously increasing the heat transfer capacity of the device.

Claims 7 and 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication should be directed to John K. Ford at telephone number 571-272-4911.



John K. Ford
Primary Examiner